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BOARD OF PUBLIC UTILITIES

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April 11, 1996

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Hon. William F. Caton  
Acting Secretary  
Office of the Secretary  
Federal Communications Commission  
1919 M. Street, N.W.  
Washington, D.C. 20554

VIA FEDERAL EXPRESS

Re: In the Matter of Federal State Joint Board  
on Universal Service

CC Docket No. 96-45

Dear Mr. Caton:

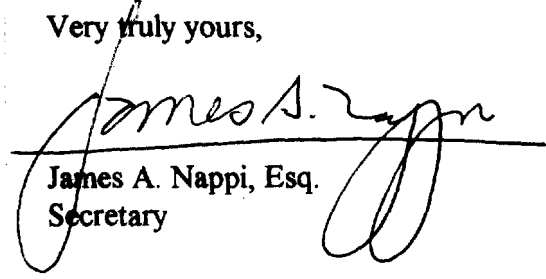
Enclosed please find an original and 4 copies of the comments of the Staff of the New Jersey Board of Public Utilities' Division of Telecommunications for filing in the above matter. In addition, as requested by the Commission, 2 additional sets of comments have been enclosed as "extra public copies."

Kindly place the Division of Telecommunications on the service list for this docket.

Please return one copy marked "Filed" in the enclosed addressed, stamped envelope.

Thank you for your consideration.

Very truly yours,

  
James A. Nappi, Esq.  
Secretary

/wf  
enclosures

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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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In the Matter of  
Federal State Joint Board on  
Universal Service

CC Docket No. 96-45

Comments of the Staff of the  
New Jersey Board of Public Utilities  
on Notice of Propose Rulemaking

The Staff of the New Jersey Board of Public Utilities ("Staff"), respectfully submits the following comments to the Notice of Proposed Rulemaking ("NPRM") released by the Federal Communications Commission (hereinafter "Commission") on March 8, 1996. The New Jersey, Board of Public Utilities ("Board") has regulatory authority over telephone utilities in the State of New Jersey pursuant to N. J. S. A. 48: 2-13 et. seq.

In these comments the Staff, will address the issues in the NPRM, that will impact New Jersey consumers and reflects the rapidly evolving telecommunications environment in the state.

A key consideration that must be understood throughout this process and these comments is the distinction between universal service and affordable telecommunications service. Universal service is the access to a telecommunications device. Our State goal is to ensure that every customer, business or residential, has access to a telecommunications device. Staff believes that there are basic capabilities that must be available today. However, we concur with those who believe that any definition or listing of capabilities must be flexible so as to evolve with technology.

Affordable telecommunications capabilities, addresses the pricing issues and therefore access to networks. Any universal service fund must target those less able to afford service as opposed to a universal service fund targeted towards providing all users access.

## **I. UNIVERSAL SERVICE DEFINITION**

The Board had formed an industry/public sector joint Cable/Telco Task Force. Among the topics discussed was a fundamental definition for universal service.

Before an appropriate mechanism for Universal Service Funding can be established, it is necessary to determine "core" services or capabilities which should be eligible for universal service support. Staff believes that all customers, regardless of income or provider of service, should have affordable access to the public switched network regardless of their location or ability to pay. Staff believes that the "core" services which must be part of a Universal Service definition include: single line, single party residential voice grade access to the first point of switching in the local exchange network; touch tone capability; access to emergency services (911); and access to operator services, directory assistance and Telecommunications Relay Service. We, also, believe that this basic list should be supplemented by other services or capabilities as technology evolves.<sup>1</sup>

While Staff believes that these services or capabilities should be available to all customers on a universal, non-discriminatory basis, support for their monthly cost should be limited to residence customers who satisfy a state defined means test. One method may be the method currently used in determining Link-up America eligibility. Likewise, since a majority of a telecommunications provider's costs are allocated as intrastate, and the majority of customer usage is intrastate in nature, universal service funding, eligibility and administration should be left to the states.

Of the remainder of the services being considered by the Commission, Staff favors the availability of low cost toll limitation services for low income customers, and public interest payphones. At this time, and except for schools, libraries, and health care providers, Staff would limit the definition to the capabilities listed.

In addition to the capabilities mentioned above, certain other considerations must accompany the definition of what constitutes universal service. Customers must be provided safe, adequate and proper telecommunications service. This extends to no-cost repair of the network on the providers side of the network demarcation point, free access to the provider's customer assistance personnel for billing inquiries as well as rate questions. The New Jersey Administrative Code requires a utility to provide to customers assistance in determining the most appropriate rate and charges to minimize cost to the consumer. As the industry becomes more and more competitive, customers must be protected from false or misleading advertisements. While we recognize that this concept may not have been envisioned to be in the "definition" of universal service, we also recognize that misleading consumers may lead to nullifying any definition developed for universal service.

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1. The New Jersey industry Task Force did not agree on whether local usage should be included in the definition and, if so, how much usage should be included, and whether touch tone capability means touch tone service.

## **II. UNIVERSAL SERVICE SUPPORT BENEFICIARIES**

### **A. Rural, Insular, and High Cost Areas and Low Income Consumers**

To insure that quality services are provided to all customers and areas on a technologically and economically neutral and non-discriminatory basis, Staff recommends that all existing and potential market entrants offer their services to all customers on, a minimum, county-wide basis using direct or resold facilities. This will induce competition throughout a defined area. Furthermore, service must be available to all users regardless of geographic or economic constraints. In addition, this approach should not favor one provider over another. Each provider will know the area to be served, its demographics and geography, thus it allows new market entrants to begin offering services to a limited defined area. It, also, should reduce carrier of last resort issues. While we recognize the uniqueness of the New Jersey market, this approach should not be pre-empted by any federal definition, or action (intended or otherwise). In short, states must be able to tailor their local area concerns so as to address all the issues involved in rural, insular, high cost, and low income areas to best match the needs of the state.

### **B. Schools, Libraries, and Health Care Providers**

One of the key universal service principles established under the Act is that elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services (Section 254 (b) (6)). Additionally, the Act allows the Commission to designate additional, special services for universal service support for eligible schools, libraries and health care providers (Section 254 (c) (3)).

Staff believes that implementation of these principles will help ensure that both national and state universal service goals are met. While most of the world is becoming increasingly saturated with technology, today's classroom is not at that "cutting edge." For example, few classrooms have a telephone or a telephone line. Without a telephone line, access to much of the technology needed for interactive computers, computer networks and national databases is not possible. The ultimate goal of distance learning is not to have any student denied by virtue of geography or chance, and to have an opportunity to participate in a technology rich environment.

New Jersey is already well on the way to implementing the national goal of making advanced technology more universally available. Our state-of-the-art telecommunications infrastructure has begun to improve the quality of life through improved education and health care. Therefore, we would not support any federal definition or finding that pre-empts or limits New Jersey's ability to provide distance learning or health care at reasonable rates.

Most of New Jersey's educational technology projects were initiated, funded and implemented at the local district level. This funding serves to highlight the need for local control. In addition, in June 1995, the Board approved a tariff for Interactive Distance Learning Service

(IDLS). This service was a direct result of the Board's activities to foster an advanced telecommunications network, and allows for interconnection of multiple customer locations with a full two-way interactive audio and video. The tariff offers a discounted rate to public and private institutions, public libraries, cultural institutions and non profit organizations for distance learning applications. Special needs districts which are identified by the State Department of Education are allowed an additional discount. This IDLS service will enable schools to take advantage of interactive services, particularly in urban areas, and was developed with the cooperation of the State's Department of Education. Future IDLS applications could include the delivery of health care information in such areas as first aid, prenatal care, and drug awareness classes to the community through the use of IDLS facilities. These types of future applications are currently being explored with system administrators, through initiatives such as Opportunity Camden which is a specially designed application to meet the needs of the City of Camden, New Jersey. Other examples of special networks are in-place or taking place in New Jersey. We believe these local programs must be managed at the state or local level and we again stress the need not to be pre-empted intentionally or unintentionally by federal rules.

### **III. UNIVERSAL SERVICE SUPPORT MECHANISMS**

Regardless of the mechanism ultimately chosen by the Commission to affect non-discriminatory universal service funding, Staff believes that the mechanism should follow certain basic principles:

1. Any restructures of existing mechanisms should not transfer the burden from carriers to end-users. Rather, they should be extended to all eligible telecommunications carriers including incumbent LECs in order to avoid placing one provider at a competitive disadvantage over another. Also, any restructure of existing aid programs should limit the subsidies to those end-users who, without the aid, would not be able to afford telephone service.
2. Funding for the interstate portion of any mechanism should not exceed the amount of current funding obtained from the SLC and the CCLC.
3. Funding, benefit eligibility and administration should be left to the States for all intrastate uses, with a separate fund for interstate usage.
4. Any interstate universal service fund must be neutral in its effects and therefore must not advantage one state over another, or that state's utilities over another state's utilities. For example, low cost areas must not subsidize high cost areas. To do otherwise, would in

Staff's view, be contrary to the 1996 Act's requirement that support be "explicit."

5. Subsidy funding should be available to all providers, and subsidies to an eligible customer should follow that customer to their service provider of choice. That is, if a customer is provided a subsidy and chooses to use the services of another carrier during the year, the prorata balance of that subsidy should be transferred to the customer's new carrier.

These principles will assure that end -users, existing market providers, and new entrants are treated equitably, and will not force some states to underwrite the universal service needs of other states.

#### **IV. ADMINISTRATION OF SUPPORT MECHANISMS**

With respect to the preferred mechanism for determining the financial responsibility for the required contributions to fund universal service, Staff would advocate the use of a hybrid approach which considers both a telecommunications service provider's revenues and the number of customers/lines served. We would not support any funding coming directly from end-users.

By considering revenues, a provider's obligation could be related to its ability to pay. This would minimize a market incumbent's ability to gain or retain a market advantage over smaller providers. It also would require larger market entrants to pay their fair share of the overall universal service obligation. Staff, would also, use the number of customers/lines served to determine the amount a carrier would be able to draw from the fund.

Once the appropriate subsidy is determined, a per-carrier or provider assessment would be set. Staff recommends that the assessment be re-calculated at least once per-year to recognize changes in telecommunications provider network costs and the number of eligible benefit recipients. At the same time, any aberrations in the program could be addressed.

Since one of the key purposes of the Act is to foster the development of competition, it would be inappropriate in Staff's view to have industry participants involved in managing the fund. Rather, Staff would favor management by a competitively neutral third party. The party ultimately chosen to manage the fund would need the experience and resources to track carrier assessments and payments out of the fund, as well as the ability to properly invest amounts that would not come due in the near term to maintain the fund until changes in the assessment are determined through periodic review.

In order to assure that payments from the fund are made in a technologically and competitively neutral manner, all providers of telecommunications services should be eligible to obtain such payments. Likewise, subsidies awarded to an eligible customer should follow that customer to their service provider of choice. The fund administrator would be charged with assuring that subsidy payments for eligible recipients were given to the customer's service provider of choice.

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